

Message Text

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ACTION EA-12

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E.O. 11652: N/A

TAGS: EINV, RP

SUBJECT: AMENDMENT TO PHILIPPINE PATENT LAW: FINAL
CHAPTER?

REF: (A) MANILA 06596, (B) MANILA 11416

1' SUMMARY. RECENT PRESIDENTIAL DECREE CREATED INTER-
AGENCY TECHNOLOGY TRANSFER BOARD WHICH WILL HAVE SOLE
AUTHORITY TO APPROVE LICENSING AGREEMENT INVOLVING TRANS-
FER OF TECHNOLOGY. RULES AND REGULATIONS ISSUED BY BOARD
INCLUDED REMOVAL OF 5 PERCENT ROYALTY CEILING. CREATION
OF BOARD ENDS DISPUTE WITHIN GOP OVER WHO IS TO APPROVE
LICENSING AGREEMENTS BY INVOLVING SIX DIFFERENT GOP
AGENCIES' END SUMMARY.

2. PD 1520 ISSUED SEPTEMBER 1, ESTABLISHED INTER-AGENCY
TECHNOLOGY TRANSFER BOARD AUTHORIZED TO REGISTER AND
APPROVE ALL VOLUNTARY LICENSING CONTRACTS INVOLVING TRANS-
FER OF TECHNOLOGY. TECHNOLOGY TRANSFER BOARD, CHAIRED BY
EDGARDO TORDESILLAS, VICE-CHAIRMAN OF BOARD OF INVEST-
MENTS, ALSO INCLUDES REPRESENTATIVES OF CENTRAL BANK,
TECHNOLOGY RESOURCE CENTER, NATIONAL ECONOMIC DEVELOPMENT
AUTHORITY, NATIONAL SCIENCE DEVELOPMENT BOARD, AND PATENT
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3. RULES AND REGULATIONS HAVE BEEN DRAWN UP BY THE BOARD
COVERING FUNCTIONS OF BOARD, EVALUATION OF AGREEMENTS,
CONTENTS OF AGREEMENTS, AND CERTIFICATION OF REGISTRATION.
THESE RULES AND REGULATIONS WILL GO INTO EFFECT OCTOBER
10.

4. MOST IMPORTANT CHANGE INCLUDED IN REGULATIONS WAS REMOVAL OF 5 PERCENT ROYALTY CEILING PROVIDED FOR IN PD 1263. THE NEW REGULATION DOES NOT INDICATE A ROYALTY CEILING, THOUGH ONE BOARD MEMBER NOTED DURING PUBLIC HEARINGS ON MATTER THAT MAXIMUM ROYALTY GUIDELINES TO BE USED BY BOARD WOULD BE 5 PERCENT OF NET SALES LESS IMPORTED RAW MATERIALS, WITH HIGHER RATES ALLOWED FOR "VERY MERITORIOUS CASES." OTHER HIGHLIGHTS OF THE RULES WERE A 60-DAY TIME LIMIT FOR BOARD APPROVAL OF APPLICATION (IF NO ACTION TAKEN, APPLICATION IS AUTOMATICALLY APPROVED), INCLUSION OF TRADEMARKS, EVEN WITHOUT ACTUAL TRANSFER OF TECHNOLOGY, AS UNDER JURISDICTION OF BOARD, AND LISTING OF RESTRICTIVE CLAUSES TAKEN MOSTLY FROM UNCTAD.

5. PD 1520 SUPERSEDES CERTAIN PROVISIONS OF BOTH CENTRAL BANK CIRCULAR 393 AND PD 1263 (REFTEL B). IT REPEALS COMPLETELY LOI 678 AND INTER-AGENCY MEMORANDUM REPORTED IN REFTEL B.

6. COMMENT: PD 1520, A TYPICALLY FILIPINO COMPROMISE, PRESUMABLY IS THE FINAL CHAPTER TO LONG-STANDING DISPUTE WITHIN GOP OVER WHO WOULD HAVE AUTHORITY TO APPROVE LICENSING AGREEMENTS. THERE IS NO DOUBT THAT THE TRC LOST A LOT OF GROUND FROM ITS ORIGINAL POSITION IN PD 1263, LIMITED OFFICIAL USE

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AND THAT THE BOI HAS SHORED UP ITS POSITION CONSIDERABLY. BOTH WILL CERTAINLY PLAY AN ACTIVE ROLE WITHIN THE BOARD. REMOVAL OF 5 PERCENT ROYALTY CEILING AND FURTHER DILUTION OF TRC INFLUENCE ARE DEVELOPMENTS WELCOMED BY AMERICAN BUSINESSMEN HERE. END COMMENT. TOUSSAINT

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